

AMENDED IN SENATE SEPTEMBER 3, 1999

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## ASSEMBLY BILL

**No. 136**

**Introduced by Assembly Member ~~Migden~~ Mazzoni**  
**(Principal coauthors: Assembly Members Migden and Shelley)**

**(Coauthors: Assembly Members Aroner, Hertzberg, Keeley, Knox, Kuehl, Lempert, Longville, Romero, Steinberg, Washington, Wesson, and Wiggins)**  
**(Coauthor: Senator Solis)**

January 11, 1999

---

---

~~An act to amend Section 1370.4 of the Health and Safety Code, and to amend Section 10145.3 of the Insurance Code, relating to health care coverage.—An act to amend Section 11364.7 of the Health and Safety Code, relating to distribution of needles and syringes.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 136, as amended, ~~Migden—Mazzoni~~. ~~Health care coverage: independent review—Drug paraphernalia: clean needle and syringe exchange projects.~~

*Existing law makes it a misdemeanor to furnish drug paraphernalia, knowingly, or under circumstances when one reasonably should know, that it will be used to inject or introduce into the human body a controlled substance.*

*This bill would exempt from criminal prosecution public entities and their agents and employees who distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.*

~~Existing law requires, on or after July 1, 1998, every health care service plan and disability insurer to establish a reasonable external, independent review process to examine coverage decisions regarding experimental or investigational therapies for individual enrollees or insureds who meet prescribed criteria. The criteria includes a requirement that the enrollee or insured have a terminal condition that has a high probability of causing death within 2 years from the date of the request for an independent review.~~

~~This bill would revise this criteria to instead require that the enrollee or insured have a life-threatening, as defined, or seriously debilitating condition, as defined.~~

~~Existing law requires that the external, independent review of a health care service plan or disability insurer under these provisions meet certain criteria, including that the health care service plan or disability insurer contract with one or more impartial, independent, accredited entities which in turn are required to select an independent panel. Existing law provides that the enrollee shall not be required to pay for the external, independent review and requires that the costs of the review be borne by the health care service plan or disability insurer.~~

~~This bill would require that the Department of Corporations contract with one or more impartial, independent, accredited entities for purposes of the external, independent review process, rather than the plan or insurer. The bill would require the plan or insurer to reimburse the department for costs associated with the contract.~~

~~Since a violation of this provision by a health care service plan would be a crime, this bill would impose a state-mandated local program by expanding the scope of a crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated~~

~~by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*.  
State-mandated local program: ~~yes~~ *no*.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 1370.4 of the Health and Safety~~

2 ~~SECTION 1. Section 11364.7 of the Health and Safety~~

3 ~~Code is amended to read:~~

4 11364.7. (a) Except as authorized by law, any person  
5 who delivers, furnishes, or transfers, possesses with intent  
6 to deliver, furnish, or transfer, or manufactures with the  
7 intent to deliver, furnish, or transfer, drug paraphernalia,  
8 knowing, or under circumstances where one reasonably  
9 should know, that it will be used to plant, propagate,  
10 cultivate, grow, harvest, compound, convert, produce,  
11 process, prepare, test, analyze, pack, repack, store,  
12 contain, conceal, inject, ingest, inhale, or otherwise  
13 introduce into the human body a controlled substance,  
14 except as provided in subdivision (b), in violation of this  
15 division, is guilty of a misdemeanor.

16 *No public entity, its agents, or employees shall be*  
17 *subject to criminal prosecution for distribution of*  
18 *hypodermic needles or syringes to participants in clean*  
19 *needle and syringe exchange projects authorized by the*  
20 *public entity pursuant to a declaration of a local*  
21 *emergency due to the existence of a critical local public*  
22 *health crisis.*

23 (b) Except as authorized by law, any person who  
24 manufactures with intent to deliver, furnish, or transfer  
25 drug paraphernalia knowing, or under circumstances  
26 where one reasonably should know, that it will be used to  
27 plant, propagate, cultivate, grow, harvest, manufacture,  
28 compound, convert, produce, process, prepare, test,  
29 analyze, pack, repack, store, contain, conceal, inject,  
30 ingest, inhale, or otherwise introduce into the human  
31 body cocaine, cocaine base, heroin, phencyclidine, or

1 methamphetamine in violation of this division shall be  
2 punished by imprisonment in a county jail for not more  
3 than one year, or in the state prison.

4 (c) Except as authorized by law, any person, 18 years  
5 of age or over, who violates subdivision (a) by delivering,  
6 furnishing, or transferring drug paraphernalia to a person  
7 under 18 years of age who is at least three years his or her  
8 junior, or who, upon the grounds of a public or private  
9 elementary, vocational, junior high, or high school,  
10 possesses a hypodermic needle, as defined in paragraph  
11 (7) of subdivision (a) of Section 11014.5, with the intent  
12 to deliver, furnish, or transfer the hypodermic needle,  
13 knowing, or under circumstances where one reasonably  
14 should know, that it will be used by a person under 18  
15 years of age to inject into the human body a controlled  
16 substance, is guilty of a misdemeanor and shall be  
17 punished by imprisonment in a county jail for not more  
18 than one year, by a fine of not more than one thousand  
19 dollars (\$1,000), or by both that imprisonment and fine.

20 (d) The violation, or the causing or the permitting of  
21 a violation, of subdivision (a), (b), or (c) by a holder of  
22 a business or liquor license issued by a city, county, or city  
23 and county, or by the State of California, and in the course  
24 of the licensee's business shall be grounds for the  
25 revocation of that license.

26 (e) All drug paraphernalia defined in Section 11014.5  
27 is subject to forfeiture and may be seized by any peace  
28 officer pursuant to Section 11471.

29 (f) If any provision of this section or the application  
30 thereof to any person or circumstance is held invalid, it  
31 is the intent of the Legislature that the invalidity shall not  
32 affect other provisions or applications of this section  
33 which can be given effect without the invalid provision  
34 or application and to this end the provisions of this section  
35 are severable.



1  
2  
3  
4  
5  
6  
7

**All matter omitted in this version of the  
bill appears in the bill as amended in the  
Assembly, April 15, 1999 (JR 11)**

O

